

1
2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Jessica Weaver,

No. CV-25-00356-TUC-LCK

10 Plaintiff,

11 **REPORT AND**
RECOMMENDATION

12 v.

13 Commissioner of Social Security
Administration,

14 Defendant.

15 Pending before the Court is Plaintiff's Motion to Proceed In Forma Pauperis (IFP).
16 (Doc. 2.) Because there is not, and absent the Defendant's appearance cannot be, full
17 consent to Magistrate Judge jurisdiction in this case, the assigned Magistrate Judge submits
18 a Report and Recommendation to Senior District Judge Raner C. Collins. Gen. Ord. 21-25.
19 The Magistrate Judge recommends the District Court, after its independent review of the
20 record, deny the Motion and direct Plaintiff to pay the filing fee or her case will be
21 dismissed.

22 Pursuant to 28 U.S.C. § 1915(a), a plaintiff may file an action without paying the
23 filing fee if she submits an affidavit stating that she lacks sufficient funds, and if her suit is
24 not frivolous or malicious. *Franklin v. Murphy*, 745 F.2d 1221, 1226 (9th Cir. 1984). A
25 plaintiff's affidavit is sufficient to support her application when "it alleges that the affiant
26 cannot pay the court costs and still afford the necessities of life." *Escobedo v. Applebees*,
27 787 F.3d 1226, 1228 (9th Cir. 2015) (citing *Adkins v. E.I. DuPont de Nemours & Co.*, 335
28 U.S. 331, 339 (1948)). To obtain IFP status, the plaintiff "must allege poverty 'with some

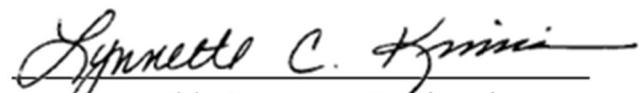
1 particularity, definiteness and certainty.'" *Id.* (quoting *United States v. McQuade*, 647 F.2d
2 938, 940 (9th Cir. 1981)).

3 In her application, Plaintiff indicated that she currently is working and will earn
4 \$4000 this month. (Doc. 2 at 1.) Plaintiff stated that she has approximately \$4290 in
5 savings, which she has earmarked for a vacation with her daughter. (*Id.* at 2, 5.) She does
6 not own substantial assets but also does not have significant debt. (*Id.* at 3-4.) She indicated
7 that other family members live with them, but her portion of household expenses are less
8 than her income. (*Id.* at 3, 5.) Additionally, her expenses include saving \$1000 per month
9 for her daughter to use in the future. (*Id.* at 5.)

10 Given Plaintiff's income, which exceeds her monthly expenses and allows her to
11 save monthly, her limited debt, and her current savings totalling over \$4000, the Court
12 finds that Plaintiff has not established her poverty with certainty or that she will not be able
13 to afford the necessities of life if she is required to pay the \$405 filing fee. Based on the
14 foregoing, the Magistrate Judge recommends that the District Court enter an order denying
15 Plaintiff's Motion for In Forma Pauperis Status (Doc. 2) and directing her to pay the filing
16 fee or her Complaint will be subject to dismissal. Pursuant to Federal Rule of Civil
17 Procedure 72(b)(2), Plaintiff may serve and file written objections within fourteen days of
18 being served with a copy of the Report and Recommendation. If objections are not timely
19 filed, they may be deemed waived.

20 Dated this 9th day of July, 2025.

21
22
23
24
25
26
27
28



Honorable Lynnette C. Kimmens
United States Magistrate Judge